

29. Do these hospitals admit patients for medical and surgical conditions which are not strictly emergency?
30. Do these emergency hospitals make any charge for service?
31. Are these hospitals engaging in practice which is objectionable to the county society?
32. Do these emergency hospitals or other tax-supported institutions or departments of government employ resuscitation squads who administer oxygen in private homes and hospitals over long periods?
33. Is this service objectionable to the county society?
34. Are there any other tax-supported institutions in your county engaged in any work that comes within the category of medical practice?

* * *

III.—GENERAL INFORMATION

1. Population of county?
2. Where is county hospital located?
3. Is population dependent chiefly on industry or agriculture?
4. Number of physicians in county?
5. Number belonging to county society?
6. Is county hospital governed directly by Board of Supervisors?
7. Is county hospital governed directly or indirectly by an advisory board or other board?
8. Does harmony exist between the Board of Supervisors and the medical profession as represented by the county society?
9. Does the Board of Supervisors seek or accept advice from the medical society in relation to the county hospital?
10. Does the county hospital accept so-called "pay patients"?
11. Is there a sincere attempt made to admit only indigents?
12. Is a sincere attempt made to collect from pay patients?
13. Does the county hospital evade the pay issue by receiving "contributions"?
14. Are county hospital beds actually needed to care for population of county (other than indigents)?
15. Is the sentiment, if any, of the population in general in favor of the "open" or "closed" county hospital?
16. Has there been any attempt politically to make the county hospital open to all?
17. Has there been any attempt in the past two years to enlarge the county hospital beyond the capacity needed for indigents?
18. What lay organizations in the county are carrying on propaganda to open county hospitals to citizens who are not indigent?
19. Is there an apparent demand on the part of the people for legislation to open the county hospitals?
20. Is there a full-time medical superintendent or director?
21. Is there a full-time non-medical superintendent or director?
22. Is there a part-time medical superintendent or director?
23. Is there an organized staff?
24. Is the staff composed solely of members of the county society?
25. Do any of the staff receive salaries for full or part-time work?
26. Is the staff sufficient to care for the peak load of patients?
27. Is the hospital recognized for intern training?
28. How many training interns are employed?
29. Is the usual intern work cared for by residents who have completed their internship elsewhere? What salary?
30. Are all physicians of the county allowed to care for patients in the county hospital?
31. Are all physicians of the county allowed to care for patients either private or indigent?
32. Has the county society at any time objected to the manner in which members of the society have used the county hospital?
33. Have members of the county society at any time for any reason refused to do county hospital work?
34. Have any members of the county society aided the supervisors or politicians in furthering the cause of the open county hospital?
35. Does your society have a part-pay medical plan in coöperation with the county hospital?
36. Does the county hospital bring in any specialists (to augment the staff) from outside your county?
37. How is your crippled children problem handled?
38. Are the people in general satisfied with the county hospital service?
39. Is there any hospital insurance plan in operation in your county?

CORPORATIONS CANNOT PRACTICE MEDICINE IN CALIFORNIA

Opinion by Hon. C. J. Goodell, Judge in the
Superior Court, in and for the City and
County of San Francisco

Reference is made in this issue (on page 397) to the opinion rendered by Superior Court Judge Goodell of California. As there stated, it may well be read in conjunction with Justice Hughes' opinion, printed in last month's issue, on page 389.

In the Superior Court of the State of California, in and
for the City and County of San Francisco

Department No. 16

No. 246,284

People of the State of California, *ex rel.* State Board of
Medical Examiners,
vs.
Pacific Health Corporation, Inc.,
Plaintiff,
Defendant.

MEMORANDUM OPINION

This case, in my opinion, is ruled by *People vs. Merchants Protective Corporation*, 189 Cal. 531. There is not a single ground, so far as I can see, upon which it can be distinguished; nor any reason found in that opinion which cannot, with equal force, be urged with respect to the case at bar. Substitute "doctor" for "lawyer" or "attorney," and "patient" for "client," and you have the instant case. At page 539 it is said: "The attorney in such a case owes his first allegiance to his immediate employer, the corporation, and owes, at most, but an incidental, secondary and divided loyalty to the clientele of the corporation." The same is true of the doctor-corporation-patient-relationship here in question.

The law singles out members of the medical and legal professions and treats them differently from members of other professions. This is well instanced in the provisions of Sec. 1881, C. C. P., which codify, broadly speaking, the familiar rules of law respecting confidential communications. "There are particular relations," says that section, "in which it is the policy of the law to encourage confidence and to preserve it inviolate; therefore, a person cannot be examined as a witness," etc. etc. Then follow the privileged persons, and of all the learned professions (other than the ministry) the only ones so privileged are the medical and legal professions. Thus, as far as privilege goes, they are put on a par. It is the highly confidential relationship which seems to be the controlling factor.

People vs. Merchants Protective Corporation has been followed in several cases. In *People vs. Allied Architects Association*, 201 Cal. 428, the Supreme Court adopted the opinion of the trial judge, which distinguished the case of the architect from that of the lawyer. At page 432 there is found this language: "the essential element underlying the relation of attorney and client is that of trust and confidence of the highest degree, growing out of the employment and entering into the performance of every duty which the attorney owes the client in the course of his employment, and that the intervention of a corporation between the client whom it secures and the attorney whom it employs, even though the latter be duly licensed, prevents this relation of trust and confidence from arising. . . . Such a relation is *sui generis*. If a corporation could enter into this relation it might be, as the court points out, that those in control of its affairs would be without character, learning or standing, and the standards of the profession would thereby be degraded, and the great injury of the state."

In *People vs. California Protective Corporation*, 76 Cal. App. 354, 359, 360, the Merchants Protective Corporation case was followed. At page 360 it is said: "It thus appears that the attorneys retained and paid by the corporation are its agents and that their acts are its acts. It follows: . . . that appellant was engaged in the practice of law." In *Whelan vs. Bailey*, 1 Cal. App. (2d) 334, 339, it is said: "It is well settled that a corporation may not practice law either directly or indirectly by hiring lawyers to practice on its behalf" (citing 189 Cal. 531, 76 Cal. App. 534, and 1932 Supp. Cal. Jur. 19). In the *Painless Parker* case, 216 Cal. 285, at 298, it is said: "That a corporation may not engage in the practice of the law, medicine or dentistry is a settled question in this State. None of those professions which involves a relationship of a personal as well as a professional character, which has to do with personal privacy, can be placed in the same category as druggists, architects or other vocations where no such relationship exists."

The analogy mentioned in the first paragraph of this memorandum finds support and approval in the *Painless*

Parker case, 216 Cal. 285, where, at page 297, Mr. Justice Seawell says: "To whom do the licensed dentists employed by the corporation owe their statutory duty, to Painless Parker or to the commercial institutions which pay them, or to the patient assigned them to serve? If they owed their first allegiance to their employer, the corporation, as was held in *People vs. Merchants Protective Corporation*, 189 Cal. 531 (209 Pac. 363), a case involving the duty of an attorney to his client, then they owed but a secondary and divided loyalty to the patient. This was denounced as not within the intendments of the law and practice."

The allegiance owed by a lawyer to his client is one kind of allegiance; that of a dentist to his patient another, and that of a physician or surgeon to his patient still another. Each obligation, in the very nature of things, is different in practice. The Supreme Court, however, invokes the analogy between dentistry and law, and the same may be said with respect to medicine.

In these three situations you have one factor common to all, namely, a commercial corporation—one organized for the purpose of making money for its stockholders—acting as the medium through which legal services, dental services or medical services are furnished to persons with whom it is in privity, by lawyers, dentists and physicians employed by the corporation. It makes no difference whether these professional men are salaried employees or get their compensation by way of a fee; whether they are called agents or independent contractors. The fact remains that they are subject to the orders of the corporation and its officers. It takes no great exercise of the imagination to picture any number of possible conflicts arising between a doctor and a general manager over the treatment of a member-patient.

The form of the application, and the certificates may differ in this case from the form of contracts entered into in the cited cases. However they may differ in language, the object sought to be attained in both cases is in substance and essence the same.

Alarm is expressed by counsel for defendant over the effect that a judgment for plaintiff in this case might have on a number of institutions which for years have existed in this State, and which seems to have had the approval, or at least not the disapproval, of the authorities or the State Board. Reference is made to hospital associations, to medical services furnished to members by fraternal organizations, and to industries and railroads where monthly hospital deductions are made. There is nothing in the record to show how any of these institutions operates, and so no fear is entertained by the writer that the decision of this case can have any influence whatever upon the conduct of these other enterprises. Each case must be decided upon its own facts. I am satisfied that there is no parallel between this and the other cases, as to which alarm is expressed.

It is unnecessary to discuss the authorities from outside this State. Many are cited by both sides, but I am satisfied that the California cases already discussed are controlling.

The plaintiff, in my opinion, is entitled to judgment as prayed.

C. J. GOODELL, Judge.

(Dated) October 15, 1935.

BLACK WIDOW SPIDER POISONING

Additional Discussion

Dr. K. F. Meyer, Director of the Hooper Foundation for Medical Research, University of California, was asked to discuss the paper on "Black Widow Spider Poisoning," printed on page 328 in the November issue of *CALIFORNIA AND WESTERN MEDICINE*. Owing to a serious illness, Doctor Meyer's discussion was written too late to be used in the November number, and is now printed as a special article:

The interesting and timely paper by Dr. Russell N. Gray recalls to the discussor a few reports on spider poisoning which he has seen during the past fifteen or twenty years.

Doctor Hameau probably was the first to describe, in the *Dublin Medical Journal*, Vol. 10, pp. 500-501, 1836, the symptoms produced by the bite of a spider (*Epeira diademata*): "A young girl gleaning in the fields was bitten above the left bosom by a large dark-colored spider. She felt a sharp pain in the part at the time. In a few minutes she became so weak that her limbs sunk under her, and her sufferings were so great that she rolled about on the ground and could not refrain from screaming out. Within an hour the doctor found her drenched with perspiration, her face alternately pale and flushed, her extremities cold, her breathing slow and oppressed, her pulse irregular and very small. She complained of severe pains in the feet, knees, thighs, and back; and as these subsided they fixed themselves in the epigastric region, causing a sense of most distressing oppression and anxiety. The muscles in several parts of the body were in a state of continual oscillation or tremor. Firm compression of the limbs afforded considerable relief to this symptom. The seat of the bite was red and swollen, and a small vesicle filled with a yellowish serum occupied its center. The symptoms were not relieved until three doses of opium had been administered."

Fatal intoxications caused by the so-called "black wolf," *Lathrodectus tredecimguttatus*, have been reported from Russia by Rossikow, Arb. Entomol. Bureau, Vol. 5, No. 2, 1904, Petersburg, Russia. In a series of 349 persons bitten by this spider, eleven died. On the other hand, Houssay (Arranas venenosas, Flaiban et Camilloni, p. 36, 1917) and Escomel, Bull. Soc. Path. Exot., Vol. 12, p. 700, 1919, who both describe severe symptoms of poisoning induced by *Lathrodectus mactans*, have never observed the death of a human being following a spider bite. The action of the poison is in part dependent on the location of the bite. The illness is more severe following a bite on the neck than on the foot.

The possibility of immunizing animals by injections of extracts prepared from whole *Lathrodectus erebus* was established as early as 1901 by Kobert. In fact, Schtscherbina (Arb. d. Entomolog. Bureau, Vol. 4, No. 4, 1903, in Russian) has immunized camels by repeated and progressively increasing doses of glycerinated-aqueous extracts of the cephalothorax dissected from the bodies of *Lathrodectus malmignatus*. At the end of one month the animal tolerated thirteen lethal doses of the extract. The serum neutralized the antigen *in vitro*, and it was successfully used therapeutically on poisoned animals, provided it was administered not later than ten to twenty hours after the introduction of the venom. In South America, Houssay and Brazil Vital (Mem. Inst. Butantan. 1925/26, and Brazil Med. 1925/26) have prepared and used specific anti-arachno toxins. More recently Becker and d'Amour in Denver (Proc. Soc. Exp. Biol. and Med., Vol. 32, p. 166, October, 1932), have shown the protective value of rat serum prepared by sublethal doses of less than one-fourth spider when tested intraperitoneally. In view of these observations it is indeed gratifying to note that the large scale preparation of a specific antivenin against the American black spider poison is being considered seriously.

THE ROCKEFELLER FOUNDATION

Programs and Policies

The Rockefeller Foundation expended \$12,679,775 during the year 1934, according to its annual report, which has just been published. In commenting upon the activities of the year, Max Mason, president of the Foundation, said in part:

"The decisions reached during the year 1934 as to program in the immediate future bring increased emphasis on special fields, and on realistic research designed to meet definite and clearly recognized needs.

"The Foundation proposes to continue its traditional work in public health, studying, through its field and laboratory staffs, diseases and the control of diseases in their environments, and giving assistance to governmental activities and to the training of personnel.

"In the field of medical science the major interest will continue to be mental health, and support will be given for research and its applications, as well as for the training of personnel. A secondary interest will be the training of medical students in hygiene and public health. . .

Public Health

Operating on a budget of \$2,200,000 for public health activities, The Rockefeller Foundation in 1934 engaged in field research on yellow fever, malaria, hookworm disease, tuberculosis, undulant fever, yaws, and diphtheria; conducted yellow fever surveys and control campaigns; carried out projects in malaria control, supported numerous demonstrations of complete public health programs;